

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COMMISSIONER OF EDUCATION

IN RE RESIDENCY OF A.DOE
AND Z. DOE

RIDE No. 20-007K

DECISION

HELD: Although family may have anticipated moving from Pawtucket to North Providence prior to the beginning of the 2019-20 school year, the move did not actually occur and the two school-aged students in the family continued to reside in Pawtucket with their mother, and thus remained residents of Pawtucket for school purposes. Moreover, even if the family had moved to North Providence, the evidence made clear that their reason for doing so would have been for the purpose of attending school in North Providence, which would not have been sufficient to establish residency for school purposes in that town.

Date: April 20, 2020

I. Travel of the Case

On January 13, 2020, counsel for the North Providence School Department requested that the Commissioner determine the residency for school purposes of Students A. Doe and Z. Doe and that the hearing be expedited so that, if these students were to be enrolled in a different school system, such transition could take place prior to the scheduled beginning of the second semester of the school year. An expedited evidentiary hearing was then held before the undersigned hearing officer on February 7, 2020.

Ms. Doe appeared *pro se*, assisted by her older son. The North Providence School Department was represented by its legal counsel. Testimony as well as documentary, photographic and video evidence were admitted, and submitted to the undersigned, designated by the Commissioner to hear and decide this case. The record closed on March 25, 2020 upon receipt of the transcript of the hearing by the undersigned.

Jurisdiction to hear this appeal lies under R.I. Gen. Laws §§ 16-64-6 and 16-39-1.

II. The Issue

Are Students A. Doe and Z. Doe residents of the Town of North Providence for school purposes?

III. Findings of Relevant Facts

- Doe and Z. Doe, who are siblings, were enrolled in the North Providence School Department on August 1, 2019. At the time of their enrollment, their mother listed a home address in North Providence. N.P. Ex. 11 and 18. She later filed three separate affidavits attesting to her residence in North Providence and attesting to the fact that both of her children lived there with her. N. P. Ex. 13, 14 and 19. The landlord at the address

listed by Ms. Doe also submitted affidavits attesting that her “primary residence” with her children was located at the North Providence address (N.P. Ex. 13 and 14), and in a separate notarized statement declared that the family had started renting this residence on July 1, 2019 and that they paid a monthly rental fee that included all utilities. N.P. Ex. 12.

- Both A. Doe and Z. Doe have attended school in North Providence throughout the 2019-20 school year, until school closure per Governor Gina Raimondo’s Executive Order 20-04 issued on March 16, 2020. A. Doe attends North Providence High School and Z. Doe attends Ricci Middle School. Tr. pp 16-17.
- On September 19, 2019 there was a disciplinary incident at North Providence High School involving A. Doe which resulted in his suspension from school. A written notice to his parent regarding his suspension was prepared by the principal of the High School, Christen Magill, and then given to Tim Heston, the residency investigator for the District, for delivery. Mr. Heston attempted to deliver the suspension notice to the address in North Providence provided by Ms. Doe but was not able to find anyone at home. He tried unsuccessfully to deliver the notice to the same address the following day, September 20, 2019. Tr. pp. 99-104; N.P. Ex. 5.
- On or about September 24, 2019 Principal Magill and Superintendent Joseph Goho met with Ms. Doe about A. Doe’s suspension. When Superintendent Goho questioned Ms. Doe about the family’s residence, Ms. Doe responded that she had “two residences,” that she paid rent for the residence in North Providence, and that she lived in a nearby area of Pawtucket, Rhode Island. She went on to state that she drove the children from

Pawtucket early each morning to the address in North Providence (where her son, the children's brother, lives) so that "they're able to get to school". Tr. p. 105.

- Shortly thereafter, on September 24, 2019 letters from Superintendent Goho to Ms. Doe were prepared with respect to both A. Doe and Z. Doe, for hand delivery to her by each school principal where the children attended, i. e. "c/o Thomas Mellen" and "c/o Christen Magill". The letters informed Ms. Doe that it had come to the Superintendent's attention that she and her children did not reside at the North Providence address provided at the time of registration, and requested that Ms. Doe provide the Superintendent with documentation verifying that she was a resident of the Town of North Providence. The Superintendent concluded the letter by stating that "if you are no longer living in North Providence, it is important that you register your child in the city or town that you reside in as soon as possible". N.P. Ex. 9.
- In meetings with Ms. Magill and Mr. Mellen, respectively, Ms. Doe refused to accept the letter from the Superintendent described above. Tr. pp. 81; 99; 132-133. When copies of the letters were mailed by certified mail, return receipt requested, Ms. Doe refused to accept these letters. Tr. p. 81; N. P. Ex. 9.
- Mr. Heston continued to monitor both the North Providence address and the Pawtucket address from September 25, 2019 to December 16, 2019 to attempt to determine where the children and their family were actually living. N.P. Ex. 1. His observations led him to the conclusion that the family was actually residing exclusively at the Pawtucket address, and he instituted video surveillance there during the period December 15, 2019 to January 9, 2020. After reviewing most of the video footage for this period of time, Mr. Heston concluded that both Ms. Doe and her children, A. Doe and Z. Doe, lived at the

Pawtucket address and did not reside in North Providence. The children went to school and returned from school to their home in Pawtucket each school day. The video showed that they were never absent from their home overnight, much less for the number of nights per week it was alleged that they stayed at their “other” residence in North Providence, i.e., at their brother’s home there. Tr. pp. 77-78.

- Based on Mr. Heston’s observations, video surveillance of the Pawtucket house, Mr. Heston’s written report of what this surveillance indicated, and anecdotal information school staff had received over the course of the entire semester, a notice dated January 10, 2020 was sent to Ms. Doe informing her that her children’s registration in North Providence schools would be “suspended” as of January 25, 2020. Tr. pp.137-138;142.¹
- Ms. Doe and her children, A. Doe and Z. Doe, reside in the City of Pawtucket and have not taken up residence in the Town of North Providence at any point during the 2019-20 school year.

IV. Positions of the Parties

Ms. Doe:

Ms. Doe takes the position that she has two residences – one in Pawtucket and one in North Providence. She stated (through her son who at various times acted on her behalf at the hearing) that although she herself does not live in North Providence, her children do stay there for some days and nights during the school week. The reason for this living arrangement is: (a) her family’s initial plan to move to North Providence to live with her son and his fiancée was thwarted when her current landlord insisted that she continue to pay rent for the remainder of her lease on her Pawtucket apartment; (b) her work schedule; and (c) the fact that her boyfriend is

¹ A copy of this notice was not entered into the record, but Mr. Mellen described it in his testimony.

recovering from surgery and is available to take the children to and from school (from the Pawtucket residence) on most days.

Ms. Doe asserts that she pays \$200 per month in rent to her son's fiancée, who owns the house in North Providence. She contends that because she pays rent for her children to stay there, she is legally entitled to enroll her children in North Providence schools and have them continue to attend until, presumably, her lease in Pawtucket expires and she can make the move that she had earlier anticipated.

According to Ms. Doe, questions that have been raised and presented to the Commissioner regarding her children's school residency have been motivated by their race. She contends that school personnel have been "racist" in the manner in which they have acted toward her children. She also claims that increased monitoring of the family's comings and goings and comments to her children about where they actually live have traumatized them. Moreover, she argues that behavioral incidents at school have only served to rationalize an unwarranted focus by District residency officials on the family's lifestyle. Although staff of both Ricci Middle School and North Providence High School have often been helpful and attempted to problem-solve with respect to both of the children's education, Ms. Doe is disappointed in the manner in which school officials ultimately made a decision- and instituted a process- to have the children exited from North Providence schools.

North Providence School Committee:

Counsel for North Providence argues that under Rhode Island school law, a child is to be enrolled in the school system of the city or town in which they reside and a child is deemed to be a resident of the city or town where his or her parents reside. Yet, according to counsel, neither Ms. Doe nor her children live in North Providence. Counsel maintained that the testimony of the

District's residency investigator with respect to his observations at both the North Providence address and the home in Pawtucket, as well as photos, video clips, and the testimony of Principal Magill and Principal Mellen with respect to comments made to them on various occasions and at meetings, prove that this family lives in Pawtucket.

In addition, counsel argues that even if it were to be accepted that the children spent part of their time at their adult brother's home in North Providence – and that the brother was supportive in terms of interacting with and responding to teachers and other school staff, – this would not make the children residents of North Providence for school purposes. According to counsel, a childcare arrangement or caregiver relationship does not alter the presumption that children are “deemed to be” residents of the city or town in which their parent resides. Taken a step further, counsel argued that even if A. Doe and Z. Doe had been shown to actually be living with their brother (a fact that the School Committee disputes), their living with him would have been for the purpose of attending North Providence schools, according to Ms. Doe's own statement to Superintendent Goho on September 24, 2019.

Finally, although the School Committee believes that there were certain misrepresentations made when Ms. Doe enrolled the children in the North Providence school system in August of 2019, it does not seek tuition reimbursement at this time.

Decision

The evidence in this case is clear and convincing that Ms. Doe, her son A. Doe, and daughter Z. Doe, all live in the City of Pawtucket, and that they have lived there throughout the course of the 2019-20 school year. Affidavits filed early-on in the school year with the District attested to the entire family's residency at the home of Ms. Doe's adult son and his fiancée in North Providence. Sworn testimony presented at the time of the hearing, however, was

inconsistent with this factual proposition. For reasons that remain unclear, it was the testimony of both Ms. Doe and her son that only the two children stay with him in the North Providence home of his fiancée. In addition, his fiancée equivocated while testifying on the number of nights the children actually spend at her residence and faltered when asked about whether she provided rental receipts to Ms. Doe. She was, however, unequivocal as to the reason the children stayed at her home. She testified, under oath, that the purpose was “for school,” because “we wanted them in a better school department”.

Thus, even accepting as true for purposes of argument that A. Doe and Z. Doe stay in North Providence during some nights of the school week, the reason they do so is for the purpose of attending North Providence schools. There was no other substantial reason or explanation for such living arrangement offered on the record. This living situation, if it in fact existed, would not make these students school residents of North Providence. This is because, under the common law, a child living apart from his or her parents can establish residency for school purposes only by: (1) actually residing in the town; and (2) demonstrating that the move to the town was not made for the purpose of going to school there. *See In the Matter of Priscilla H.*, RIDE (September 7, 1983). Although the Commissioner has recognized a number of substantial reasons for a child living in a town separate and apart from his or her parents,² none was shown to be present here.

As our Findings of Fact indicate, the preponderance of the evidence in this case establishes that A. Doe and Z. Doe actually live in Pawtucket with their mother and have done so throughout the course of the 2019-20 school year.³ Photographs and video clips show the

² *See In Re: Residency of M.R. Doe and M.R. Doe v. Central Falls*, RIDE No. 008-16 (February 19, 2016) (need to implement a safety/supervision plan following child’s hospitalization); *In Re: Residency of B. Doe*, RIDE No. 18-047K (May 31, 2018) (need to provide a stable home environment).

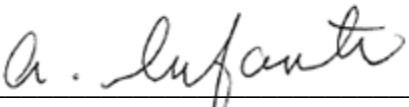
³ In fact, the evidence is “clear and convincing” on this point.

children going to school from Pawtucket in the morning and returning there at the end of the school day. Video collected over a forty-five (45) day period ending on January 9, 2020 verified the consistent pattern of their activity during each school week, according to the uncontradicted testimony of Tim Heston, who also testified that he had reviewed most of the video footage. Testimony was presented that Z. Doe seemed unfamiliar with the route to her (alleged) home in North Providence, both when walking and when riding the bus. In addition, she admitted to school officials that she lived in Pawtucket. At one point when Z. Doe was assigned after-school detention in early October of 2019, Ms. Doe went so far as to request that the late bus take her from school to Pawtucket, to the home where school officials already suspected that she lived at that time. (See N.P. Ex. 21). The Assistant Principal of her school declined to do so, informing Ms. Doe that the late bus could drop students off only within the borders of North Providence. Arrangements were then made for her to serve detention each morning at 7:30 a.m.

To their credit, school officials sought to dis-enroll both of these non-resident students only when definitive proof of their actual residence was finally garnered, giving Ms. Doe the benefit of the doubt in the meantime. The evidence here shows that school officials sought to provide both A. Doe and Z. Doe with appropriate educational services and to meet their needs, despite indications that the legitimacy of their North Providence enrollment had been called into question. There is absolutely no evidence that racism played any role in the District's treatment of A. Doe and Z. Doe or their family. Ms. Doe permitted teachers and other staff members to collaborate with their adult brother in North Providence and by all accounts he has been both supportive and responsive. His ongoing involvement in their education will undoubtedly be important as they are enrolled in the District in which they reside with their mother, i.e. Pawtucket.

For the foregoing reasons, A. Doe and Z. Doe are found to be residents of the City of Pawtucket for school purposes and must be dis-enrolled from North Providence schools forthwith.

/s/ Kathleen S. Murray
Kathleen S. Murray
Hearing Officer



Angélica Infante-Green,
Commissioner

Dated: April 20, 2020